

9) and in the three generic method claims (claims 10, 13 and 15). The three sets of pharmaceutical use claims are based upon the constructive criticism of the Examiner of claim 8. The generic pharmaceutical composition claim that was originally presented has now been replaced by the new sets of method claims which more aptly describe the pharmaceutical aspect of the present invention.

The only remaining point for consideration is the prior art rejection set forth at the outset thereof. Favorable reconsideration is respectfully requested of the rejection of the originally presented claims under 35 USC §103 as allegedly being obvious over the British patent, Almirante et al I, Shen, and Almirante et al II. The least irrelevant reference cited is perhaps the British (Almirante et al) patent, which is clarified through the subsequent work also of record of Almirante et al. The Alimirante et al article published in 1969 ["Almirante II"] is obviously the most pertinent reference as it is the most recent work, showing the direction to which a worker skilled in the art would be directed. Cf. In re Fouche, 169 USPQ 429 (CCPA 1971).


Considering Almirante II in detail, it is clear that the prior art does not lead to applicants' contribution, and particularly does not lead to the anti-hypnotic anxiolytic pharmaceutical methods of the present invention. Of the compounds compared, the compound that from a structural point of view is least irrelevant to the structures of the present invention is compound "19". With respect to the anti-convulsive activities, note that the results for even this utility were mixed, with a positive indication for electroshock and pentylenetetrazole, but "no

activity against strychnine-induced convulsions" (page 124, left column, antepenultimate paragraph).

Considering the patentability of the generic invention, and in particular the compound aspect of claim 9, it is to be appreciated that the compounds of the prior art only touch upon compound 19 and even this compound does not lead a worker skilled in the art to the structurally distinct moieties defined by claim 9 (and all other claims in this case). Having overcome the least irrelevant of the prior art references, a fortiori the claimed invention is patentably distinguished over the more remote and earlier efforts of the common prior art authors.

Accordingly, favorable consideration and allowance of this application is courteously solicited.

Respectfully submitted,

  
Harold C. Wegner  
Reg. No. 25,258

WEGNER & BRETSCHNEIDER  
P.O. Box 19542  
Washington, D.C. 20036  
Telephone No. (202) 659-5533

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